

Black Lung Compensation

Title IV, Federal Mine Safety and Health Act of 1977, as amended (30 USC §901 *et seq.*; 20 CFR Parts 718, 722, 725, 726, 727)

Who is Covered

The Black Lung Benefits Act (BLBA) provides for monthly payments to and medical treatment for coal miners totally disabled from pneumoconiosis (black lung disease) arising from employment in or around the nation's coal mines. The BLBA also provides for augmented payments to miners based on the number of his or her dependents and to certain survivors of miners who died due to or while totally disabled from pneumoconiosis.

Each coal mine operator is required to pay an excise tax, based on the operator's tonnage and price of coal sold, to support payment of benefits to miners under the Act and the cost of administering the Act. In addition, operators must provide for the payment of benefits to miners, either directly or through insurance, when they are the responsible employer of the miners.

For purposes of determining responsibility for paying benefits, a coal mine operator includes: (1) any owner, lessee, or other person who operates, controls, or supervises a coal mine or preparation plant, or (2) any independent contractor performing services or construction at a mine, or (3) companies transporting coal from mines to preparation plants.

Basic Provisions/Requirements

Current and former coal miners (including certain coal transportation and coal mine construction workers who were exposed to coal mine dust), and their surviving dependents, including surviving spouses, orphaned children, and totally dependent parents, brothers and sisters, may file claims for black lung benefits.

Basic monthly benefits for a totally disabled miner or his or her surviving spouse, as well as for claimants with qualified dependents, can be found at www.dol.gov/esa/regs/compliance/owcp/blbene2k.htm. Benefits payments are reduced by the amounts received for pneumoconiosis under state workers' compensation awards and by excess earnings in some cases. Benefit rates are adjusted periodically according to the percentage increase of federal pay rates.

Medical payments are limited to the treatment of conditions directly related to black lung disease, and only totally disabled former miners can qualify for this benefit. The Act covers certain medical, surgical and other expenses, such as hospital and nursing care, rehabilitation services, and drug and equipment charges.

The Employment Law Guide is offered as a public resource. It does not create new legal obligations and it is not a substitute for the U.S. Code, Federal Register, and Code of Federal Regulations as the official sources of applicable law. Every effort has been made to ensure that the information provided is complete and accurate as of the time of publication, and this will continue. Later versions of this Guide will be offered at www.dol.gov/compliance or by calling our Toll-Free Help Line at 1-866-4-USA-DOL (1-866-487-2365).

The Black Lung Disability Trust Fund pays the cost of black lung claims: (1) where the miner's last coal mine employment was before January 1, 1970; or (2) where no responsible coal mine operator has been identified in claims where the miner's last coal employment was after December 31, 1969; or (3) where the responsible coal mine operator has defaulted on the payment of such benefits.

Coal mine operators identified as responsible for claims based on employment after 1970 must provide for the required benefits either directly or through insurance. A tax paid by coal mine operators on each ton sold supports the Trust Fund. The current rate is \$1.10 per ton for underground-mined coal and \$.55 for surface-mined coal, subject to a cap of 4.4 percent of the sales price.

Coal mine operators may secure payment of benefits for which they are liable either by qualifying as a self-insurer or by obtaining insurance through a commercial insurance carrier or a state agency. Operators must obtain approval from the Department of Labor to become self-insurers. To qualify, they must have been in the business of coal mining for at least three years, demonstrate the ability to service black lung claims, and agree to service claims in a timely manner, meet minimum asset requirements, and obtain an indemnity bond or post other security to secure payment of benefits, among other things. Operators may appeal a denial to self-insure to the Department of Labor. When operators obtain commercial insurance, their obligations with regard to payment of benefits, and provision of medical treatment are binding on the insurance carriers.

Coal mine operators are required to begin paying benefits within 30 days of a final determination of their liability for the benefits. Where payment is made from the Trust Fund pending appeal of a claim and final determination, operators must reimburse the Trust Fund.

Employee Rights

If an employee, or his or her survivor, or an employer disagrees with a claim determination by the Division of Coal Mine Workers' Compensation, that party may request a formal hearing before an administrative law judge. The administrative law judge's decision may be appealed to the Benefits Review Board, and the Benefits Review Board's decision may be appealed to the U.S. Court of Appeals and finally to the U.S. Supreme Court.

Compliance Assistance Available

To obtain additional information, contact the nearest Black Lung district office (www.dol.gov/esa/contacts/owcp/blcontac.htm).

Questions about insurance and self-insurance requirements should be addressed to U.S. Department of Labor, ESA/OWCP/DCMWC, Branch of Standards, Regulations and Procedures, Responsible Operator Section, Room C-3526, 200 Constitution Avenue NW, Washington, D.C. 20210.

For additional compliance assistance, visit the DCMWC's Black Lung Home Page at www.dol.gov/esa/regs/compliance/owcp/bltable.htm, or contact the DCMWC by phone at 202-693-0047 or by fax at 202-693-1398.

Penalties/Sanctions

The Department of Labor may suspend or revoke the authority to self-insure due to an operator's failure to comply with the Act and its regulations, the insolvency of its surety on an indemnity bond, or impairment of the operator's financial responsibility.

Revocation of the authority to self-insure or the failure to obtain insurance does not relieve operators of liability for payment of benefits and provision of medical treatment. Operators who fail to secure insurance may be subject to a civil money penalty of \$1,000 for each day insurance is not in effect.

A lien may be placed against the property of operators who fail to pay benefits for which they have been determined liable or to reimburse the Trust Fund. The Department of Labor may also seek an injunction in U.S. District Court to ensure that such obligations are met and to prevent future noncompliance. Operators are also subject to payment of interest on the benefit payments or Trust Fund reimbursements owed, and they may be assessed an additional 20 percent of the amount due, which is payable to the claimant.

Operators who knowingly conceal or dispose of any property to avoid the payment of benefits under the Act may be guilty of a misdemeanor and, if convicted, subject to a fine of \$1,000, imprisonment for up to one year, or both.

Relation to State, Local, and Other Federal Laws

Federal black lung benefits are offset by state workers' compensation benefits for the same disease. If state black lung benefits are less than federal black lung benefits, then the federal black lung program covers the difference. Social Security disability benefits are also reduced by the amount of black lung benefits received.